



**Request for City Council Committee Action  
From the City Attorney's Office**

**Date:** April 9, 2002  
**To:** Ways & Means/Budget Committee  
**Referral to:** None

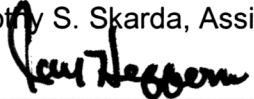
**Subject:** Robinson v. City of Minneapolis, et al.

**Recommendation:** That the City Council approve settlement of the lawsuit filed by Derrick Robinson, Hennepin County District Court file no. PI 01-13909, in the amount of \$10,500.00, payable to Derrick Robinson and his attorney, Albert T. Goins, Sr., and authorize the City Attorney to execute any documents necessary to effectuate the settlement and release of claims payable from Fund/Org. 6900 150 1500 4000.

**Previous Directives:** None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by: 

  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

**Financial Impact** (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
- ☐ Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

This lawsuit arose from an incident of January 28, 1999, and involves allegations of excessive force, illegal search, deprivation of liberty without due process, conspiracy to violate civil rights, assault, battery, negligent and intentional infliction of emotional distress and the deliberate indifference of the City to the training and discipline of police officers. The Plaintiff seeks monetary damages and injunctive relief finding

that the police department CODEFOR program is unconstitutional. The Plaintiff has also named Hennepin County and county employees as defendants in the lawsuit.

On January 28, 1999, at 9:15 a.m. Minneapolis police officers were on patrol on Franklin Avenue near 10<sup>th</sup> Avenue. A vehicle driven by Derrick Robinson pulled onto Franklin Avenue and was followed by the officers. At 11<sup>th</sup> Avenue it appeared that Mr. Robinson and his passenger noticed the officers behind them. The passenger ducked below seat level. Mr. Robinson turned as if he were handing something to the passenger. The officers pulled closer and saw Mr. Robinson making a motion with his hand to his mouth. An object was hanging from the rearview mirror and the license tabs on the vehicle were expired. Mr. Robinson made a quick left turn without signaling and the vehicle was stopped.

Mr. Robinson did not have driver's license and was asked to get out of the vehicle and place his hands on the car. Mr. Robinson's cheeks were puffy and he was not enunciating well. The officers suspected that Mr. Robinson was concealing narcotics in his mouth. Mr. Robinson was questioned whether there was anything in his mouth. Mr. Robinson elbowed an officer in the ribs and fled. The officers chased Mr. Robinson. He was caught and tackled. Mr. Robinson was struck once in the face. He was told to spit out what was in his mouth. The officers heard crunching and saw a swallowing motion. Mr. Robinson received a 1.5 inch cut to his lip that required stitches to close.

Believing that Mr. Robinson had swallowed crack cocaine, the officers transported him to the Hennepin County Medical Center. At the medical center he was placed in arm and leg restraints and monitored. Mr. Robinson told the officers that he had swallowed a packet of soap. Mr. Robinson was told that he could voluntarily swallow a substance to purge his system or the substance could be forced through a nasal tube. After learning of his options and the dangers of cocaine poisoning, Mr. Robinson agreed to voluntarily submit to treatment. Mr. Robinson vomited a small cellophane packet of crack cocaine.

At the criminal trial, Mr. Robinson challenged the admissibility of the crack cocaine into evidence as being the result of an illegal search. After a hearing at which the officers and Mr. Robinson testified, Judge Robert H. Lynn suppressed the cocaine, ruling the search illegal. Judge Lynn ruled that the traffic stop was justified and that a criminal defendant may be ordered out of his vehicle. However, Judge Lynn also ruled that the officers had no evidence to form a belief that Mr. Robinson was armed and dangerous and had no basis to conduct a pat frisk. The court ruled that the officers had no reason to believe that Mr. Robinson was in possession of narcotics or any other basis to take him into custody. The court found that the officers unreasonably confronted Mr. Robinson regarding what was in his mouth and that the officers' conduct constituted a search that required probable cause. The court found that the evidence demonstrated that the officers' conduct was designed to elevate a routine traffic stop into an opportunity to search for drugs. The court concluded that the officers' conduct was unreasonable under both the Fourth Amendment to the United States Constitution and Article 1, Section 10 of the Minneapolis Constitution.

While the ruling in the criminal prosecution is not binding in the civil litigation, it does provide guidance about how the case may be perceived by an independent third party or the court in the civil litigation.

A settlement conference was held on April 4, 2002, before the Hon. Allen Oleisky, Judge of Hennepin County District Court. The settlement conference was attended by Council Member Paul Zerby, Timothy Skarda and Michael Miller of the Office of the Hennepin County Attorney. The Plaintiff initially demanded \$85,000.00 in settlement of all claims, including attorney's fees, against the city and the county. A tentative agreement was reached in which the Plaintiff would be paid \$12,500.00. The city would pay

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\$10,500.00 and the county \$1,500.00. The proposed settlement includes all claims for costs and attorney's fees.

We believe that settling this lawsuit as described would be in the best interests of the City of Minneapolis. While Mr. Robinson was in possession of crack cocaine, if the search of his mouth was unreasonable the force used to subdue him, effectuate the search and resultant medical treatment would also be unreasonable. A Hennepin County court has already ruled the search to be illegal and Mr. Robinson has scheduled a motion of summary judgment based on the criminal ruling. Mr. Robinson was injured as a result of the force used. If Mr. Robinson were to prevail at trial, the city would be responsible for the damages awarded and for the payment of attorney's fees and costs. In settling the case, Mr. Robinson has dropped all claims that the CODEFOR program was unconstitutional.

TSS/ 00L-0179 /Ways and Means